

**IN THE UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF VIRGINIA  
Richmond Division**

**MICHAEL HENRY HEARN,**

Plaintiff,

v.

Civil Action No. **3:13CV782**

**RAYMOND BYRD,**

Defendant.

**MEMORANDUM OPINION**

Plaintiff, a Mississippi inmate, submitted this action. The pertinent statute provides:

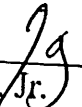
In no event shall a prisoner bring a civil action [*in forma pauperis*] if the prisoner has, on 3 or more prior occasions, while incarcerated or detained in any facility, brought an action or appeal in a court of the United States that was dismissed on the grounds that it is frivolous, malicious, or fails to state a claim upon which relief may be granted, unless the prisoner is under imminent danger of serious physical injury.

28 U.S.C. § 1915(g). Plaintiff has at least three other actions or appeals that have been dismissed as frivolous or for failure to state a claim. *See, e.g., Hearn v. Warden*, No. 4:05cv18TSL-AGN, at 3 n.2 (S.D. Miss. Jan. 28, 2005) (citing cases). Plaintiff's current pleading does not suggest that Plaintiff is in imminent danger of serious physical harm.

Plaintiff also has failed to submit the full filing fee with his action. Accordingly, this action will be DISMISSED WITHOUT PREJUDICE. *See* Fed. R. Civ. P. 41(b).

An appropriate Order shall issue.

Date: 1/2/14  
Richmond, Virginia

<p>/s/  John A. Gibney, Jr. United States District Judge</p>
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